

COVID-19 in numbers:

Ukraine

Cases: 2,284,191

Deaths: 53,720

Recovered:  
2,206,392

Worldwide

Cases: 217,176,443

Deaths: 4,514,328

Recovered:  
194,063,440

Oligarch Watch

## Editorial: Unfortunate delay

By Kyiv Post. Published Aug. 27 at 1:27 pm



Kyiv Post editorials represent the newspaper's opinion on major issues of the day.

Photo by Volodymyr Petrov

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Ukraine heavily relies on American and English courts in its battle against billionaire oligarch Ihor

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Kolomoisky.

A country with such a busted judiciary can hardly hope to hold such a powerful man accountable for stealing billions from the public.

Hopes were high when PrivatBank sued Kolomoisky in the state of Delaware. They were even higher when the U. S. Department of Justice seized Kolomoisky's properties in 2020 and all but accused him of money laundering. Criminal charges seemed on the horizon.

Now, a Delaware court has put the civil case on hold until Ukraine decides whether PrivatBank's nationalization in 2016 — and Kolomoisky's companies' shady loan repayments — are legal.

At first blush, this is bad news and a reprieve for the oligarch and his allies. Ukrainian courts are not dependable even in the best of times. Does this decision mean that an adverse ruling in Ukraine can sink the Delaware civil suit — and Kolomoisky's criminal charges with it?

Probably not. Legal insiders who spoke with the Kyiv Post think that the chance of the bank being returned to Kolomoisky is very remote. And even if Kolomoisky's companies prove that their supposed loan paybacks weren't fraudulent, the Delaware Chancery Court has the discretion to continue the case.

As for criminal charges, the civil case has already served its purpose as a vehicle to help U.S. investigators gather the evidence of Kolomoisky's alleged wrongdoing. The FBI and Justice

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Department already have all the information, which has now been passed into a grand jury's hands. If American criminal charges are coming, they are not going to be diverted with an adverse Ukrainian court decision.

Nevertheless, the Delaware decision is a setback. If the U.S. truly wants to help Ukraine root out corruption, it must not delay going after one of its principal architects. Every extra day Kolomoisky walks free is an obstacle to reform and justice.

We hope U.S. officials act sooner rather than later to help give this sneering bully his day in court.

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PrivatBank

## US court pauses PrivatBank's lawsuit of Kolomoisky

By Anna Myroniuk. Published Aug. 25. Updated Aug. 25 at 4:45 pm



 A man uses PrivatBank's ATM on May 19, 2021 in Kyiv.

Photo by Kostyantyn Chernichkin

PrivatBank's U.S. lawsuit of its former owners, Ihor Kolomoisky and Gennadiy Bogolyubov, and their business associates, has been largely put on hold on Aug. 23.

The Delaware Chancery Court has decided that it would be best to wait for Ukrainian courts to make key rulings about PrivatBank's 2016

nationalization and its attempts to recover loans from borrowers.

“Were this Court to move forward with this case now, it would be forced to adjudicate these issues of Ukrainian law...The risk of inconsistent judgments is high,” Vice Chancellor Joseph R. Slights III concluded. Some procedural matters will move forward.

In a more positive development for the state-owned bank, the court quashed Kolomoisky and Bogolyubov’s motion to dismiss the case.

“While there is a possibility that the Ukraine cases could impact PrivatBank’s Delaware case, it will be up to the Delaware Court to decide what, if any, impact they will have in due course,” PrivatBank told the Kyiv Post in a statement.

“By its recent decision, rejecting the defendants’ motion to dismiss PrivatBank’s case, the Delaware Court has clearly confirmed that it will consider the case, including the associated Ukrainian law matters.”

PrivatBank, Ukraine’s largest lender, is suing Kolomoisky and his business associates for more than \$600 million in Delaware, alleging that this money was laundered into the U.S. after being stolen from the bank through Ponzi-like insider lending schemes.

The laundered money has allegedly been pumped into a series of companies with the name Optima, according to the U.S. Justice Department that seeks to confiscate some of these properties in

Cleveland, Louisville and Dallas. PrivatBank has accused Kolomoisky's American business partners Mordecai Korf and Uriel Laber of helping organize the scheme.

Mark Ressler, a lawyer for Korf and Laber, issued a statement saying that his clients are "pleased" that Slight's "stayed PrivatBank's baseless claims pending ongoing developments in Ukraine."

PrivatBank was nationalized in December 2016, after a \$5.5 billion hole was found in its ledger, as a result of the oligarchs' alleged looting.

### Ukrainian decisions

The Delaware Chancery Court is waiting for several key decisions in Ukrainian courts before deciding how to proceed with the case.

One concerns the legality of PrivatBank's nationalization, which Kolomoisky and Bogolyubov have challenged.

"The Nationalization Action will determine whether the Ukrainian government lacks standing to bring an action through PrivatBank in the first instance," Slight's wrote.

In April 2019, the Kyiv District Administrative Court **ruled** that the nationalization of PrivatBank was illegal. The bank appealed. The hearing of the case has repeatedly been **postponed**.

Another issue concerns PrivatBank's attempts to get money back from its borrowers — companies

linked to the oligarchs. These companies claim that the debts have already been repaid.

According to Slight's, roughly 75% of the loans mentioned in the Delaware case are being disputed in Ukraine. Much of this litigation revolves around Kolomoisky's Nikopol Ferroalloy Plant, which is suing PrivatBank in the Economic Court of Kyiv.

"Nikopol claimed in each suit that PrivatBank's Delaware lawsuit failed to recognize that Nikopol fulfilled all of its obligations under the loan agreements when PrivatBank alleged that Nikopol misused loan proceeds," Slight's wrote.

A Ukrainian court has already ordered PrivatBank to repay some money to the plant.

### **Twisting the facts**

A public relations firm hired by Korf and Laber on Aug. 25 emailed journalists a statement that Slight's put the case on hold because Ukraine's court determined Kolomoisky's companies' loans to be legitimate.

In fact, Slight's never wrote that anywhere in his decision. There has also been no such determination by Ukrainian courts.

The PR firm, Mercury, is infamous in Ukraine for whitewashing the reputation of the country's fugitive ex-president, Viktor Yanukovich.

While working for Yanukovich, Mercury failed to declare the cooperation with the U.S. Justice

Department, as it was legally required to do.

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